

Opinion

of Mr. Tofiq Hasanov, member of Expert Group under Central Election Commission to investigate the complaints against actions (inactions) and decisions violating citizens' election rights in the repeat Elections to the Milli Majlis of the Republic of Azerbaijan on Aghdash Con.EC # 90, appointed to June 18, 2016, on the appeal # 09 submitted to CEC on June 01, 2016

Baku

3 June 2016

I, member of Expert Group, Tofiq Hasanov, investigating the written complaint filed to the Central Election Commission of the Republic of Azerbaijan on June 1 2016 by Kerim Galamshah Kerimli, nominated on his own initiative in the repeat Elections to the Milli Majlis of the Republic of Azerbaijan on Aghdash Con.EC # 90 appointed to June 18, 2016, defined the following:

The complaint was adopted for the implementation in comply with Articles 112 and 112-1 of the Election Code of the Republic of Azerbaijan and "Instruction on the rules for submission and investigation of the appeals and complaints filed to the Central Election Commission of the Republic of Azerbaijan and Constituency Election Commissions".

In his written complaint addressed to the Central Election Commission on June 1, 2016, Kerim Galamshah Kerimli, nominee on own initiative in the repeat Elections to the Milli Majlis of the Republic of Azerbaijan on Aghdash Con.EC # 90, appointed to June 18, 2016 requested to annul the Con.EC decision # 17/55, dated May 25, 2016 on the registration of his candidacy and to adopt a decision on the registration of his nomination.

K.G.Kerimli informed in his complaint that he nominated his candidacy on own initiative in the repeat Elections to the Milli Majlis of the Republic of Azerbaijan on Aghdash Con.EC # 90, appointed to June 18, 2016 and his nomination was approved by the Con.EC decision, dated May 15, 2016, he submitted signature sheets with voters' signatures to register his candidacy and other attached documents to the Con.EC, but he was not invited to the Con.EC during checking those documents and his candidacy was refused without any reason and ground to be registered.

The Con.EC substantiated its decision on the refusal from registering K.G.Kerimli on the lack of the sufficient number of valid voter signatures to register the nominee.

During the investigation process the voters' signatures considered invalid by the Con.EC and argued by the plaintiff were submitted to the working group under the Central Election Commission, the protocol, dated and opinions June 2, 2016, compiled by the working group upon the examination of the necessary documents to register the candidacy revealed that 131 out of the signatures submitted by K.G.Kerimli to register the candidacy were considered invalid basing on different grounds.

Since the number of the signatures considered valid was not sufficient to register the nominee, any law-based ground was not determined to annul the Con.EC decision on the refusal from registering his candidacy and to register the nomination. Thus, pursuant to Article 147.1 of the Election Code, at least 450 signatures shall be collected in support of a candidate within the territory of the election constituency where they have been nominated on. Pursuant to Article 60.2.4 of the Code, the fact that the number of valid (accurate) signatures presented in support of the candidate is less than the necessary amount is a ground to refuse from registering the nominee.

Not inviting K.G.Kerimli to the Con.EC during the examination of the documents was not justified at the investigation. So, the reference provided by the Con.EC reveals that while examining the signature sheets of K.G.Kerimli, his participation in the examination and the Con.EC session was ensured.

According to the above-mentioned, the appeal nominee K.G.Kerimli shall not be implemented due to groundlessness and the decision # 17/55 of Aghdash Con.EC # 90, dated May 25, 2016 on the refusal from registering the nomination shall be remained enforced without any amendments.

Taking the above mentioned as a basis, pursuant to Articles 19.4, 28.2, 59, 60, 112, 112-1 and 147 of Election Code of the Republic of Azerbaijan and item # 1, 2, 4, 6 and 7 of the “Instruction on the rules for submission and investigation of the appeals and complaints filed to the Central Election Commission of the Republic of Azerbaijan and Constituency Election Commissions”, I made the following opinion that:

1. The appeal # 09, dated June 1, 2016 by Kerim Galamshah Kerimli, nominee on own initiative in the repeat Elections to the Milli Majlis of the Republic of Azerbaijan on Aghdash Con.EC # 90, appointed to June 18, 2016 shall not be implemented due to groundlessness and the decision of that Con.EC # 17/55, dated May 25, 2016 shall be remained enforced without any amendments.
2. Opinion shall be published from day of its adoption no later than 18 hours from that period (placed in internet site) and its copy shall be sent to the applicants.

Member of Expert Group

Tofiq Hasanov